



Proposed Regulation Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	13 VAC 5-51
Regulation title	Virginia Statewide Fire Prevention Code
Action title	Update of Virginia Statewide Fire Prevention Code
Document preparation date	July 15, 2004

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The Virginia Statewide Fire Prevention Code (SFPC) incorporates by reference a nationally recognized model fire prevention code (the International Fire Code, or IFC) developed by the International Code Council (ICC). This national code is updated at every three years along with other model codes developed by ICC. Therefore, the Board reviews all of its building and fire regulations which use these model codes on a three year cycle to consider the use of the newest national codes and standards.

A preliminary review of the differences between the 2000 edition of the IFC, which is the model code used under the current regulation, and the 2003 edition of the IFC, which is being incorporated by reference into the IFC in this regulatory action, indicates one substantive change. Other changes may be identified by the client groups reviewing the proposed regulation during the comment period established in this action. The substantive change noted is that new comprehensive regulations for hydrogen motor fuel-dispensing and generation facilities have been added to the 2003 IFC.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly

chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The statutory authority to update the regulation is contained in § 27-97 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development. State law requires the Board to keep the regulation up to date.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The general reason this regulatory action is essential to protect the health, safety and welfare of the citizens of the Commonwealth is that without the building and fire regulations of the Board of Housing and Community Development being kept up-to-date by using the latest editions of the nationally recognized model codes and standards and without the correlation of this regulation with the other building and fire regulations of the Board, the protection of the health, safety and welfare of Virginia's citizens is not assured since conditions which need to be regulated are not. In addition, where a condition which was previously determined in the nationally recognized codes and standards to need to be regulated is addressed less restrictively in the newest model codes and standards, there would be the risk of exposing Virginia's citizens to unnecessary regulations.

The general goals of this regulatory action and general problems this regulatory action will solve are the same as the general reason the regulatory action is essential to protect the health, safety and welfare of the citizens of the Commonwealth. Without keeping the codes up-to-date, there is the potential for not regulating necessary conditions, or over-regulating conditions determined to be less necessary of regulation.

The specific reason this regulatory action is essential to protect the health, safety and welfare of the citizens of the Commonwealth; the specific goal of this regulatory action and the specific problem this regulatory action will solve, in relation to the one identified substantive change between the 2000 edition of the IFC and the 2003 edition of the IFC for comprehensive regulations for the generation and distribution of hydrogen motor vehicle fuel, is to have the latest standards developed by the hydrogen industry specifically incorporated as part of the IFC, and as the IFC is incorporated as part of the SFPC, in the SFPC itself. Prior to this edition of the IFC, regulations for hydrogen fuel were through a reference to the standards of the National Fire Protection Association (NFPA).

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

There are no generally no substantive changes between the existing regulation and the proposed regulation which could be identified. The substance of the one substantive change identified between the 2000 IFC and the 2003 IFC is the addition of comprehensive regulations for hydrogen motor fuel-dispensing and generation facilities based on industry standards.

In addition, however, since this regulation is a companion regulation to the other building and fire regulations promulgated by the Board and needs to be coordinated with those regulations, and since the other building and fire regulations of the Board are concurrently undergoing regulatory actions to reference the newest available nationally recognized model codes and standards, the Board is therefore accepting comment on all of the provisions of this regulation.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantage to the public of this action in general is that the regulation will provide the least possible necessary regulations for assuring safety in the use of buildings and structures and in other operations relative to fire safety.

The specific advantage to the public of this action in relation to the addition of the comprehensive regulations for the generation and distribution of hydrogen motor vehicle fuel is to increase the safety of the public by having the latest standards developed by the hydrogen industry specifically incorporated as part of the SFPC to be enforced by local and state fire officials.

There are no advantages to the Department of Housing and Community Development or to the Commonwealth resulting from this action.

There are no disadvantages to the public or to the Commonwealth resulting from this action.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	Not applicable.
Projected cost of the regulation on localities	Not applicable.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Not applicable.
Agency’s best estimate of the number of such entities that will be affected	Not applicable.
Projected cost of the regulation for affected individuals, businesses, or other entities	Not applicable.

The economic impact of this action is no different from the economic impact of the existing regulation since no substantive changes are proposed to the existing regulation at this time with the exception of the

addition of comprehensive regulations for hydrogen motor fuel-dispensing and generation facilities. With respect to the hydrogen regulations, as the NFPA standards for hydrogen were referenced in the previous edition of the SFPC, there is no significant difference between the existing regulation and the proposed regulation, except that the new regulations are now part of the SFPC and therefore more readily available to the fire officials.

In addition, however, as this regulation is a companion regulation to the other building and fire regulations of the Board, which are concurrently undergoing revision to incorporate the latest nationally recognized model codes and standards, it is anticipated that the Board will receive requests during the public comment period for substantive changes to this regulation. As stated in the Agency Background Document for the NOIRA phase of this action, depending on the nature of comment received, the Board may choose to publish a revised proposed (re-proposed) regulation containing all changes to the original proposed regulation along with an additional comment period.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Not applicable, as there are no substantive changes proposed to the existing regulation in this phase of this action.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Not applicable.	Not applicable.	Not applicable.

The Board received no public comment concerning this action during the NOIRA period.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The Department is not aware of any potential impact of this action on the institution of the family or on family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
Not applicable.	Not applicable.	Not applicable.	Not applicable.

As previously stated, there are no substantive changes proposed to the existing regulation in this phase of this action, except the addition of the hydrogen regulations, which were contained in a reference to the NFPA standards in the existing regulation and are instead now becoming part of the SFPC more directly since they are located in the IFC. The hydrogen regulations may be found in Section 2209 of the IFC.